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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4143/2017**

DR. KAMALESH NARAIN SINGH Petitioner

Through: Ms Padma Priya Singh, Adv. along
with petitioner in person.

versus

INDIAN COUNCIL OF AGRICULTURAL RESEARCH & ORS
..... Respondent

Through: Mr S.K. Gupta, Respondent No.1 to
3, along with Mr Vikram Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

% **15.05.2017**

CM APPL. 18153/2017 (Exemption)

Exemption allowed, subject to just exceptions.

The application stands disposed of.

W.P.(C) 4143/2017 and CM APPL. 18152/2017

1. The petitioner has preferred the present writ petition to assail the order dated 14.03.2017 passed in Original Application No. 1412/2015, preferred by the petitioner. The Tribunal has dismissed the said Original Application.

2. The brief facts are that the respondents issued an advertisement inviting applications of the post of Director, Indian Agricultural Statistics Research Institute (IASRI). The first such advertisement No.04/2012 was issued in November, 2012. The petitioner applied in

response to the said advertisement. However, the said advertisement was not carried to its logical conclusion. A fresh advertisement was issued bearing No. 2/2013 by the respondents in July, 2013 for the same post. Once again, the petitioner applied in response to the said advertisement. The petitioner was also called for the interview on 18.02.2014. The petitioner once again did not hear anything from the respondents regarding the outcome of the interview. The respondents yet again advertised the said post in June, 2014 vide advertisement No. 2/2014. The last date for submission of the application was 08.08.2014. The petitioner accordingly submitted his application. While he was still awaiting the call for interview pursuant to the latest advertisement, the respondents issued the impugned order dated 19.11.2014 appointing respondent No.4 Dr. U.C. Sud to the post of Director, IASRI. The petitioner then made enquiries as to how respondent No.4 was appointed to the said post in November, 2014, when a fresh advertisement had already been issued in June, 2014 in supersession of the earlier advertisement of July, 2013. Eventually, the petitioner received information under the Right to Information Act. The petitioner procured the file notings related to the process of appointment whereby respondent No. 4 came to be appointed vide order dated 19.11.2014. It transpired that respondent No. 4 was recommended by the Selection Committee. However, the then Minister of Agriculture decided to scrap the process of selection on account of a lacunae in the constitution of the Selection Board. The respondent No.4, apparently, pushed his case by making a representation which was forwarded through the sitting Member of

Parliament. The said representation of respondent No. 4 was accepted, and, consequently, the appointment order dated 19.11.2014 was issued in his favour. The petitioner, therefore, assailed the appointment of respondent No. 4 by filing the aforesaid application. The Tribunal has dismissed the said Original Application on the premise that the petitioner had participated in the selection process and, therefore, he was estopped from challenging the said process.

3. Ms Padma Priya Singh, learned counsel for the petitioner, submits that respondent No.4 had breached the stipulation in the advertisement in question, in response to which he was appointed, which provided that canvassing in any form will disqualify the appointment of the candidate. She further submits that respondent No. 4 had canvassed his case through a sitting Member of the Parliament and in this regard placed reliance on the communication dated 09.06.2014 issued by Ms Jagdambika Pal, Member of Parliament (Lok Sabha), enclosing the representation of respondent No.4 for his selection for the post of Director, IASRI.

4. She further submits that once the selection process—wherein the name of respondent No.4 had been recommended, had been scrapped and a fresh advertisement issued, the respondents could not have proceeded to appoint respondent No.4 in pursuance of the scrapped selection process. A perusal of the impugned order shows that the stand taken by the official respondents was that the constitution of the Interview Board was considered to be flawed by the then Secretary, ICAR, due to inclusion of one Dr. A.K. Nigam, as one of the external members, who was once a Principal Scientist, and

who had taken voluntary retirement from service and started his own consultancy service. The said Dr. Nigam could not go beyond the post of Principal Scientist during his service tenure, yet that he had sat in the Interview Board for selection of Director of the same institution—which is a higher post. However, the decision taken by the then Minister to scrap the process was reviewed, since the Chairman, ASRB had opined that there were two other outside members who had requisite credentials, status and stature in the field. Besides that, Chairman (ASRB), Member (ASRB), Deputy Director General (Engineer) were also in the Selection Board. Therefore, the mere inclusion of Dr. A.K. Nigam, who was one of the external members of the Selection Board, had not vitiated the selection process.

5. Though we find merit in the petitioner's submission that the petitioner could not be non-suited, in the facts and circumstances of the case, on the ground that the petitioner had participated in the selection process, we are not inclined to interfere with the impugned order.

6. The petitioner was aggrieved by the appointment of respondent No.4 to the post of Director in pursuance of the earlier selection process after a fresh advertisement had been issued. Thus, merely because the petitioner had participated in the selection process, could not be a reason to non-suit the petitioner. At the same time, we are mindful of the fact that respondent No.4 was appointed on 19.11.2014 and learned counsel for the petitioner has pointed out that his tenure is expiring on 31.07.2017. Even if the selection of respondent No. 4 was

to be set aside by accepting the submissions of the petitioner, the same would not automatically lead to the appointment of the petitioner to the said post, since the petitioner's name was not even recommended by the Selection Board. Even otherwise, we are of the view that the review of the decision earlier taken by the then Minister to scrap the selection process—on account of inclusion of Dr. A.K. Nigam in the Selection Board, was premised on reasonable grounds. Since the Selection Board consisted of two other outside members who had the requisite credentials, status and stature in the field, besides that the Chairman (ASRB) Member (ASRB), Deputy Director General (Engineer), the effect of the presence of A.K. Nigam in the selection Board was minimal. The submission that respondent No. 4 exercised or resorted to canvassing cannot be accepted for the reason that his representation had merely been forwarded by the then Member of Parliament for consideration without any further recommendation that the said representation be accepted. Moreover, that representation had been made after the consideration of the candidatures by the Selection Board, and not before that. Therefore, this submission of the petitioner cannot be accepted.

7. In these circumstances, we are not inclined to interfere with the impugned order. The petition is dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 15, 2017/bg